

AMENDED IN SENATE MAY 21, 2003

AMENDED IN SENATE MAY 6, 2003

**SENATE BILL**

**No. 20**

**Introduced by ~~Senator Sher~~ Senators Sher and Romero**  
**(Principal coauthor: Senator Kuehl)**

(Principal ~~Coauthor~~ coauthor: Assembly Member Jackson)  
(Coauthor: Assembly Member Pavley)

December 2, 2002

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An act to add Article 11.7 (commencing with Section 25243) to Chapter 6.5 of Division 20 of the Health and Safety Code, and to add Chapter 8.5 (commencing with Section 42460) to Part 3 of Division 30 of the Public Resources Code, relating to hazardous and solid waste, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 20, as amended, Sher. Solid waste: hazardous electronic waste recovery, reuse, and recycling.

(1) Existing law prohibits the management of hazardous waste, except in accordance with the hazardous waste laws. Under existing law, the Department of Toxic Substances Control is authorized to exempt, until January 1, 2003, by regulation, a hazardous waste management activity from the requirements of the hazardous waste control law if the regulation governs a specified type of hazardous waste, including electronic hazardous wastes, identifies the hazardous waste as a universal waste, and amends specified existing regulations of the department. Existing law prohibits the disposal of electronic products in or on land, except as specified. A violation of the hazardous waste control law is a crime.

The bill would require the Department of Toxic Substances Control to adopt regulations to prohibit the use of hazardous materials in the manufacture of hazardous electronic devices sold in the state, and to prohibit the use of any electronic or mechanical device that prevents, impedes, or limits the reuse, remanufacture, or recycling of a hazardous electronic device, thereby imposing a state-mandated local program by creating a new crime.

(2) Existing law requires the California Integrated Waste Management Board to administer state programs to recycle various specified materials.

This bill would enact the Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003. The bill would prohibit any person from selling a hazardous electronic device in this state *to a consumer, as defined*, unless the board determines that the manufacturer of that device is in compliance with the act. The bill would require a manufacturer of a hazardous electronic device, as defined, sold in the state to establish and implement a hazardous electronic device recovery system that is certified by the board for the collection, handling, transportation, processing, recovery, reuse, and recycling of the hazardous electronic waste resulting from the devices sold by that manufacturer. The bill would require a manufacturer of a hazardous electronic device that sells a hazardous electronic device in the state to notify the board of its intent to sell the device and to prepare and submit to the board a hazardous electronic device recovery plan that meets specified standards. The bill would require a manufacturer that intends to export a hazardous electronic waste to provide the department with specified information.

The bill would impose civil liability for violations of specified provisions.

The bill would require the board to establish and impose a fee on a manufacturer of a hazardous electronic device that submits a plan for review to cover its reasonable costs of implementing the act. The bill would require a manufacturer of a hazardous electronic device who does not submit a recovery plan to the board, or who does not meet specified recovery and recycling targets, to instead pay a fee to the board, in a specified amount. The bill would require the board to deposit the fees collected under the act in the Hazardous Electronic Waste, Recovery, Reuse, and Recycling Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury.



This bill would authorize the board to expend the moneys deposited in the account, upon appropriation by the Legislature, to implement the act and, among other things, to provide recycling incentive payments to hazardous electronics material handlers, provide grant funds to local governments and nonprofit agencies for recycling hazardous electronic devices, provide financial incentives to manufacturers of these devices to assist in the recycling of the devices, and to establish public information programs on recycling of hazardous electronic devices. The bill would authorize the board to adopt regulations to implement the bill.

(3) *This bill would provide that its provisions are severable.*

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) *The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Electronic waste from hazardous electronic devices  
4 represents one of the fastest growing hazardous components of  
5 California's waste stream.

6 (b) According to the United States Environmental Protection  
7 Agency, more than 4.3 million tons of appliances and consumer  
8 electronics were discarded in 1999.

9 (c) Due to the presence of toxic lead, mercury, or other  
10 hazardous or potentially hazardous materials in electronic waste,  
11 these devices pose a particular threat to public health and the  
12 environment when improperly discarded.

13 (d) A study conducted by the California Integrated Waste  
14 Management Board estimates that California households currently  
15 have more than 6,000,000 obsolete computer monitors and  
16 television sets "stockpiled" in their homes.



1 (e) A study for the National Safety Council projects that more  
2 than 10,000 computers and televisions become obsolete in  
3 California every day. The study further projects that three-quarters  
4 of all computers ever purchased in the United States remain  
5 stockpiled in storerooms, attics, garages, or basements.

6 (f) It is estimated that only 20 percent of obsolete computers  
7 and televisions are currently recovered for recycling.

8 (g) Hazardous electronic devices recovered for recycling,  
9 including devices from California public agencies, have been  
10 found to have been illegally handled and discarded in developing  
11 countries, posing a significant threat to public health, worker  
12 safety, and the environment in those countries.

13 (h) The collection, handling, and management of hazardous  
14 electronic devices that are currently recovered represents a costly  
15 and growing problem for local governments and nonprofit  
16 organizations, including Goodwill Industries and the Salvation  
17 Army.

18 (i) The high technology sector represents a vital and important  
19 part of California's economy.

20 (j) The system to reduce and recycle hazardous electronic  
21 devices established pursuant to this act should establish strict and  
22 enforceable requirements on all manufacturers of hazardous  
23 electronic devices while being cost-effective and providing  
24 flexibility to take advantage of the innovation of the high  
25 technology sector.

26 (k) The system should also ensure that the state will impose  
27 compliance obligations uniformly on all regulated entities to  
28 ensure that companies accepting their responsibilities are not  
29 penalized by the potential noncompliance of other companies.

30 (l) The system should also be scalable to national,  
31 international, and global systems to take into account obligations  
32 that may be imposed on manufacturers of hazardous electronic  
33 devices beyond those imposed under this act.

34 (m) The Governor has requested that the Legislature enact  
35 legislation in 2003 challenging industries to assume greater  
36 responsibility for the recycling and disposal of electronic waste,  
37 stating that "California needs a comprehensive and innovative  
38 state law that partners with product manufacturers, establishes  
39 recycling targets, and provides for the safe recycling and disposal  
40 of electronic wastes." The Governor further expressed support for



1 a system that “provides incentives to design products that are less  
2 toxic and more recyclable.”

3 SEC. 2. Article 11.7 (commencing with Section 25243) is  
4 added to Chapter 6.5 of Division 20 of the Health and Safety Code,  
5 to read:

6  
7 Article 11.7. Phaseout of Hazardous Materials In Hazardous  
8 Electronic Devices  
9

10 25243. The Legislature finds and declares that it is in the  
11 interest of the state to establish a program modeled on the Product  
12 Stewardship Initiative undertaken by the European Economic  
13 Union to phase out the use of hazardous materials in the  
14 manufacture of hazardous electronic devices.

15 25243.5. For purposes of this article, the following  
16 definitions apply:

17 (a) “Hazardous electronic device” has the same meaning as  
18 defined in Section 42463 of the Public Resources Code.

19 (b) “Hazardous material” has the same meaning as defined in  
20 Section 25501.

21 25243.7. On or before January 1, 2007, the department shall  
22 adopt regulations establishing dates and procedures to prohibit the  
23 use of hazardous materials in the manufacture of a hazardous  
24 electronic device sold in the state by the earliest feasible date.

25 25243.8 On or before January 1, 2005, the department shall  
26 adopt regulations prohibiting the use of an electronic or a  
27 mechanical device that prevents, impedes, or limits the reuse,  
28 remanufacture, or recycling of a hazardous electronic device.

29 SEC. 3. Chapter 8.5 (commencing with Section 42460) is  
30 added to Part 3 of Division 30 of the Public Resources Code, to  
31 read:

32  
33 CHAPTER 8.5. HAZARDOUS ELECTRONIC WASTE RECOVERY,  
34 REUSE, AND RECYCLING  
35

36 Article 1. General Provisions  
37

38 42460. This act shall be known, and may be cited, as the  
39 Hazardous Electronic Waste Recovery, Reuse, and Recycling Act  
40 of 2003.

1 42461. The Legislature finds and declares all of the  
2 following:

3 (a) The purpose of this chapter is to enact a comprehensive and  
4 innovative system for the reuse, recycling, and proper and legal  
5 disposal of hazardous electronic devices, and to provide incentives  
6 to design electronic devices that are less toxic and more recyclable.

7 (b) It is the further purpose of this chapter to enact a law that  
8 establishes a program that is cost free and convenient for  
9 consumers and the public to return, recycle, and ensure the safe  
10 and environmentally-sound disposal of hazardous electronic  
11 devices.

12 (c) It is the intent of the Legislature that the cost associated with  
13 the handling, recycling, and disposal of hazardous electronic  
14 devices is the responsibility of the producers and consumers of  
15 hazardous electronic devices, and not local government or their  
16 service providers, state government, or taxpayers.

17 (d) In order to reduce the likelihood of illegal disposal of these  
18 hazardous materials, it is the intent of this chapter to ensure that  
19 any cost associated with the proper management of hazardous  
20 electronic devices be internalized by the producers and consumers  
21 of hazardous electronic devices at or before the point of purchase,  
22 and not at the point of discard.

23 (e) Manufacturers of hazardous electronic devices, in working  
24 to achieve the goals and objectives of this chapter, should have the  
25 flexibility to partner with each other and with those public sector  
26 entities and business enterprises that currently provide collection  
27 and processing services to develop and promote a safe and  
28 effective hazardous electronic device recovery, reuse, and  
29 recycling system for California.

30 (f) The producers of electronic products, components, and  
31 devices should reduce and, to the extent feasible, ultimately phase  
32 out the use of hazardous materials in those products.

33 (g) Electronic products, components, and devices, to the  
34 greatest extent feasible, should be designed for extended life,  
35 repair, and reuse.

36 ~~(h) A further purpose of this chapter is to promote the~~  
37 ~~refurbishment and reuse of electronic equipment for the use of~~  
38 ~~schools and nonprofit agencies.~~

39



Article 2. Definitions

42463. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) “Account” means the Hazardous Electronic Waste Recovery, Reuse, and Recycling Account created in the Integrated Waste Management Fund under Section 42476.

(b) “Board” means the California Integrated Waste Management Board.

(c) (1) “Consumer” means a purchaser or owner of a hazardous electronic device.

(2) (A) “Consumer” does not include a manufacturer who purchases specialty or medical electronic equipment that is a hazardous electronic device.

(B) For purposes of this paragraph, “medical electronic equipment” includes, but is not limited to, radiotherapy equipment, cardiology equipment, dialysis equipment, pulmonary ventilators, nuclear medicine equipment, laboratory equipment for in-vitro diagnosis, analyzers and freezers.

(C) For purposes of this paragraph “specialty electronic equipment” includes, but is not limited to, smoke detectors, heating regulators, and thermostats.

(d) “Department” means the Department of Toxic Substances Control.

(e) “Fee” means the hazardous electronics device recycling and recovery fee imposed by Section 42471.

(f) “Hazardous electronic device” means any consumer product, component, or device that requires an alternating current or direct current electrical charge for operation and that the department determines is a hazardous material or a hazardous waste. A hazardous electronic device includes, but is not limited to, a television, video monitor, computer monitor, or any other device that has one or more cathode ray tubes containing lead.

(g) “Hazardous material” has the same meaning as defined in Section 25501 of the Health and Safety Code.

(h) “Manufacturer” means any person who manufactures a hazardous electronic device and sells that hazardous electronic device in this state.



(i) “Registrant” means the manufacturer, or an independent party that submits the plan required by Section 42468 instead of the manufacturer.

### Article 3. Manufacturer Responsibility

42465. (a) A person may not sell a hazardous electronic device to a consumer in this state unless the board determines the manufacturer of that hazardous electronic device demonstrates compliance with this chapter by either establishing and implementing a system certified by the board pursuant to Section 42467 or paying a fee pursuant to Section 42471.

(b) On and after January 1, 2005, a person may not sell or offer for sale in this state a hazardous electronic device unless the device is labeled with the name of the manufacturer or the manufacturer’s brand label, so that it is readily visible.

42466. (a) On or after July 1, 2006, if the board determines that the recovery and recycling targets set forth in subdivision (b) are not being met by a manufacturer or registrant of a hazardous electronic device, the manufacturer shall comply with Section 42471 until the board determines that the ~~system~~ *hazardous electronic device recovery system implemented pursuant to a hazardous electronic device recovery plan* certified by the board pursuant to Section ~~42467~~ 42469 is meeting the targets.

~~(b) The recovery systems under Section 42467 and the plans under~~

*(b) A hazardous electronic device recovery system established pursuant to Section 42467 and a hazardous electronic device recovery plan prepared pursuant to Section 42468, except as specified in subdivision (c), shall conform with the following recovery and recycling targets:*

(1) On and after January 1, 2005, a manufacturer or registrant is responsible for arranging or otherwise ensuring that an amount of hazardous electronic waste equivalent to not less than 50 percent of the hazardous electronic devices sold by that manufacturer in the state in the previous year is diverted from waste disposal and recovered for reuse or recycling.

(2) On and after January 1, 2007, a manufacturer or registrant is responsible for arranging or otherwise ensuring that an amount of hazardous electronic waste equivalent to not less than 70 percent



1 of the hazardous electronic devices sold by that manufacturer in  
2 the state in the previous year is diverted from waste disposal and  
3 recovered for reuse or recycling.

4 (3) On and after January 1, 2010, a manufacturer or registrant  
5 is responsible for arranging or otherwise ensuring that an amount  
6 of hazardous electronic waste equivalent to not less than 90 percent  
7 of the hazardous electronic devices sold by that manufacturer in  
8 the state in the previous year is diverted from waste disposal and  
9 recovered for reuse or recycling.

10 (c) The board may either increase or decrease the recovery and  
11 recycling targets in subdivision (b) based on a determination of the  
12 projected volume of obsolete hazardous electronic devices.

13 (d) Notwithstanding the recovery and recycling targets in  
14 subdivision (b), state and federal regulations prohibit the disposal  
15 of hazardous electronic waste in solid waste disposal facilities and  
16 it is the intent of the ~~legislature~~ *Legislature* that all hazardous  
17 electronic waste is managed in accordance with all applicable  
18 laws, regulations, and ordinances.

19 42467. (a) Except as provided in Section 42471, a  
20 manufacturer of a hazardous electronic device sold in the state  
21 shall establish and implement a hazardous electronic device  
22 recovery system that is certified by the board pursuant to this  
23 article for the collection, handling, transportation, processing,  
24 recovery, reuse, and recycling of the hazardous electronic waste  
25 that results from the hazardous electronic device sold by that  
26 manufacturer.

27 (b) A manufacturer of a hazardous electronic device that sells  
28 a hazardous electronic device in this state shall notify the board of  
29 its intent to sell a hazardous electronic device.

30 (c) Any manufacturer or registrant that intends to export  
31 hazardous electronic waste to a foreign destination shall comply  
32 with all of the following prior to export:

33 (1) Notify the department of the contents, volume, and  
34 destination of the proposed export.

35 (2) Demonstrate that hazardous electronic waste will be  
36 handled in a manner that is at least as protective of public health  
37 and the environment as the laws, regulations, and ordinances  
38 applicable to the recycling and disposal of these devices in this  
39 state.



1 (3) Demonstrate that the importation of hazardous electronic  
2 waste is not prohibited by any applicable law or regulation of the  
3 country of destination.

4 (d) In order to minimize costs and confusion in developing a  
5 hazardous electronic device recovery system under this section,  
6 manufacturers and registrants are encouraged to coordinate with  
7 and, to the extent feasible, support the utilization of any existing  
8 public and private systems for the collection, handling,  
9 transportation, processing, recovery, reuse, and recycling of  
10 hazardous electronic waste.

11 (e) A city, county, or public agency may not require consumers  
12 to use a system required under this section to recycle hazardous  
13 electronic devices to the exclusion of other programs legally  
14 available. This chapter anticipates that hazardous electronic  
15 device recovery systems in addition to those provided by  
16 manufacturers and registrants under this section may be available  
17 to consumers in the state. Nothing in this chapter is deemed to  
18 prohibit or restrict any other system or to prohibit or restrict any  
19 other person from receiving, storing, transporting, or recycling  
20 hazardous electronic devices.

21 42468. (a) Except as provided in Section 42471, a  
22 manufacturer or a registrant of a hazardous electronic device sold  
23 in the state shall prepare and submit to the board a hazardous  
24 electronic ~~waste~~ *device* recovery plan to establish a hazardous  
25 electronic ~~waste~~ *device* recovery system that meets all of the  
26 following standards:

27 (1) The plan demonstrates that it will result in the efficient  
28 collection, handling, transportation, processing, recovery, reuse,  
29 and recycling of hazardous electronic waste that results from the  
30 hazardous electronic device sold by that manufacturer in this state  
31 in a manner that is cost free to consumers.

32 (2) The plan demonstrates that the manufacturer or registrant  
33 will provide either directly, or through contracts or other binding  
34 arrangements with other parties as retailers, local governments, or  
35 private waste collection companies, one or more opportunities for  
36 the consumer to return the hazardous electronic devices for  
37 recovery, reuse, and recycling in a manner that is at least as  
38 convenient to the consumer as the purchase and delivery of new  
39 hazardous electronic devices through one or more of the following  
40 mechanisms:



1 (A) The return of the hazardous electronic device at a location  
2 where the device is sold.

3 (B) The mailing or shipping of the hazardous electronic device  
4 to a recycling or recovery facility, including, but not limited to, a  
5 facility owned or operated by a manufacturer of these devices.

6 (C) The curbside collection or pickup of the hazardous  
7 electronic device from the consumer.

8 (D) The dropoff of the hazardous electronic device at a  
9 conveniently located recycling or recovery facility.

10 (3) The plan demonstrates that the manufacturer or registrant  
11 of the hazardous electronic device will make available information  
12 to every consumer through the use of a toll-free telephone number,  
13 Internet Web site, and information either labeled on the device,  
14 included in the packaging, or accompanying the sale of the  
15 hazardous electronic device, that describes where and how to  
16 return, recycle, and dispose of the hazardous electronic device and  
17 opportunities and locations for the collection or return of the  
18 device.

19 (4) The plan demonstrates that all collection, handling,  
20 transportation, dismantling, processing, refurbishment, and  
21 recycling of the hazardous electronic device will be done safely  
22 and in conformance with all applicable laws, regulations, and  
23 ordinances.

24 (5) The plan demonstrates that hazardous electronic waste  
25 recovered may not be disposed in violation of any applicable law,  
26 regulation, or ordinance.

27 (6) The plan demonstrates that hazardous electronic devices  
28 sent to a foreign destination will be handled in a manner that is at  
29 least as protective of public health and the environment as the laws,  
30 regulations, and ordinances applicable to the recycling and  
31 disposal of these devices in this state and ensures that no hazardous  
32 electronic device will be exported to any country where the  
33 importation of hazardous waste is prohibited.

34 (7) The plan demonstrates the capability of meeting or  
35 exceeding the recovery targets specified in Section 42466.

36 (b) If the registrant changes the system that has been submitted  
37 to the board, before the change can become effective, the registrant  
38 shall submit the changed system to the board and revise its Internet  
39 Web site and toll-free telephone information to be consistent with  
40 the changed system.

(c) The registrant that receives a hazardous electronic device for recycling, refurbishment, or reuse ~~has the discretion to may~~ either recycle, refurbish, or reuse ~~(including resale)~~, *including resell*, the hazardous electronic device. Except to the extent otherwise required by law, the manufacturer and registrant do not have responsibility for any data that may be on the hazardous electronic device if an information storage device is included with the hazardous electronic device.

(d) Once per calendar year, each registrant shall file a report with the board ~~which~~ *that* describes the implementation of the system during the year. The report shall identify the total number of hazardous electronic devices received during the preceding year, together with the total number of devices reused or refurbished for reuse, and the total number of devices recycled or resold. The report shall also describe the processes and methods used to recycle, refurbish, or reuse the hazardous electronic devices and, in particular, the report shall identify any disassembly, physical recovery operation including, but not limited to, for, crushing, grinding, or glass to glass recycling, or other operation that was used, and describe where it took place.

42469. (a) Within 90 days of the date that the board receives a hazardous electronic device recovery plan submitted pursuant to Section 42468, the board shall review, identify, and suggest amendments, and certify or disapprove the plan at a duly noticed public hearing.

(b) The board shall certify a hazardous electronic device recovery plan only if the board determines there is substantial evidence in the record that the plan will comply with all of the standards established pursuant to Section 42468 and be implemented in accordance with those standards.

(c) The board shall establish a schedule for the review and action on a hazardous electronic device recovery plan to ensure the consistent, timely, and thorough review of each plan submitted pursuant to this article.

(d) The board shall establish and impose a fee on a manufacturer of a hazardous electronic device that submits a plan for review pursuant to this article to cover the board's reasonable costs of implementing this chapter.

42470. A registrant may partner with one or more manufacturers or other parties, as a collective registrant, to prepare

1 and submit to the board a joint hazardous electronic device  
2 recovery plan to comply with Section 42468.

3 42471. (a) As an alternative to complying with Section  
4 42468, a manufacturer of a hazardous electronic device may remit  
5 to the board a hazardous electronics waste device, recycling, and  
6 recovery fee on each hazardous electronic device sold by the  
7 manufacturer in the state.

8 (b) The board shall calculate the amount of the fee required to  
9 be paid by a manufacturer pursuant to this section by subtracting  
10 the average scrap value, including any negative scrap value, of the  
11 hazardous electronic device sold by that manufacturer, or the  
12 hazardous waste disposal cost of that device, from the average cost  
13 of collecting, processing, and recycling the hazardous electronic  
14 scrap, as determined by the board.

15 (c) The hazardous electronics waste device, recycling, and  
16 recovery fee shall be paid to entities for the collection, processing,  
17 and recycling of hazardous electronic waste, in a form and manner  
18 determined by the board.

19 42472. The imposition of a hazardous electronics waste  
20 device, recycling, and recovery fee pursuant to Section 42471 is  
21 a matter of statewide interest and concern and is applicable  
22 uniformly throughout the state. A city, county, city and county, or  
23 other public agency may not adopt, implement, or enforce an  
24 ordinance, resolution, regulation, or rule establishing a hazardous  
25 electronics device recycling and recovery fee unless expressly  
26 authorized under this chapter. This section does not prohibit the  
27 adoption, implementation, or enforcement of any local ordinance,  
28 resolution, regulation, or rule governing curbside or dropoff  
29 recycling programs operated by, or pursuant to a contract with, a  
30 city, county, city and county, or other public agency, including  
31 actions relating to fees for these programs.

32 42473. The Legislature declares that the imposition of a  
33 hazardous electronics device recycling and recovery fee pursuant  
34 to Section 42471 would not result in the imposition of a tax within  
35 the meaning of Article XIII A of the California Constitution,  
36 because the amount and nature of the fee has a fair and reasonable  
37 relationship to the adverse environmental burdens imposed by the  
38 disposal of hazardous electronic devices and there is a sufficient  
39 nexus between the fee imposed and the use of those fees to support  
40 the recycling and reuse of these devices.

1 42474. (a) Civil liability in an amount of up to two thousand  
2 five hundred dollars (\$2,500) per offense may be administratively  
3 imposed by the board for each sale of a hazardous electronic device  
4 not covered either by a hazardous electronic device recovery  
5 system certified by the board under Section 42467, or by a  
6 hazardous electronics waste device, recycling, and recovery fee  
7 paid in lieu of the recovery system requirement of Section 42467,  
8 as defined in Section 42471.

9 (b) A civil penalty in an amount of up to five thousand dollars  
10 (\$5,000) per offense may be imposed by a superior court for each  
11 sale of a hazardous electronic device not covered either by a  
12 hazardous electronic device recovery system certified by the board  
13 under Section 42467, or by a hazardous electronics waste device,  
14 recycling, and recovery fee paid in lieu of the recovery system  
15 requirement of Section 42467, as described under Section 42471.

16 (c) Civil liability in an amount of up to twenty-five thousand  
17 dollars (\$25,000) may be administratively imposed by the board  
18 against manufacturers or registrants for failure to comply with  
19 Section 42465, 42467, 42468, or 42471.

20  
21 Article 4. Administration  
22

23 42475. (a) The board shall administer this chapter in  
24 consultation with the department.

25 (b) The board may adopt any regulations pursuant to Chapter  
26 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
27 Title 2 of the Government Code that are necessary to implement  
28 this chapter.

29 (c) The board shall adopt regulations pursuant to Chapter 3.5  
30 (commencing with Section 11340) of Part 1 of Division 3 of Title  
31 2 of the Government Code that ensure the protection of any  
32 proprietary information submitted to the board by a manufacturer  
33 of hazardous electronic devices.

34 (d) The board may prepare, publish, or issue any materials that  
35 the board determines to be necessary for the dissemination of  
36 information concerning the activities of the board under this  
37 chapter.

38 (e) In carrying out this chapter, the board may solicit and use  
39 any and all expertise available in other state agencies, including,

1 but not limited to, the department, the Department of  
2 Conservation, and the State Board of Equalization.

3  
4 Article 5. Financial Provisions  
5

6 42476. (a) The board shall deposit any fees or fines collected  
7 under this chapter into the Hazardous Electronic Waste Recovery,  
8 Reuse, and Recycling Account which is hereby created in the  
9 Integrated Waste Management Fund. The funds in the Hazardous  
10 Electronic Waste Recovery, Reuse, and Recycling Account may  
11 be expended by the board, upon appropriation by the Legislature,  
12 for the purposes of implementing this chapter and for the  
13 following purposes:

14 (1) To provide recycling incentive payments to hazardous  
15 electronics material handlers that collect and process hazardous  
16 electronics and hazardous electronic devices, if those facilities  
17 comply with all of the applicable provisions of Sections 66273.80  
18 to 66273.90, inclusive, of Title 22 of the California Code of  
19 Regulations.

20 (2) To provide grant funds to local governments for the cleanup  
21 of illegally dumped hazardous electronic devices and to establish  
22 and maintain local programs that supplement private sector  
23 programs pursuant to Section 42467 for the convenient and  
24 cost-effective collection and recycling of hazardous electronics  
25 and hazardous electronic devices.

26 (3) To provide grants to nonprofit agencies that accept for  
27 recycling hazardous electronics and hazardous electronic devices.

28 (4) To provide financial incentives to manufacturers of  
29 hazardous electronic devices to encourage consumers to return the  
30 devices for processing, or recycling, and to assist manufacturers  
31 in collecting, processing, or recycling hazardous electronic  
32 devices.

33 (5) To establish a public information program to educate the  
34 public on the hazards of improper hazardous electronic device  
35 storage and disposal and on the opportunities to recycle hazardous  
36 electronic devices. Not more than one percent of funds in the  
37 account may be used for the purpose of implementing this  
38 paragraph.

39 (6) To provide funding to the department to implement and  
40 enforce Chapter 6.5 (commencing with Section 25100) of



1 Division 20 of the Health and Safety Code, as that chapter relates  
2 to hazardous electronic devices, and any regulations adopted by  
3 the department pursuant to that chapter.

4 (b) The board may not provide any grant or payment for  
5 hazardous electronic devices unless the materials will be handled  
6 in compliance with all statutes and regulations regarding the  
7 export of hazardous wastes. No grant or payment may be made for  
8 hazardous electronic devices exported to any country where the  
9 export of hazardous waste is prohibited.

10  
11 Article 6. State Agency Procurement  
12

13 42480. (a) A state agency that purchases or leases hazardous  
14 electronic devices shall require each prospective bidder, to certify  
15 that it, and its agents, subsidiaries, partners, joint venturers, and  
16 subcontractors for the procurement, have complied with this  
17 chapter and any regulations adopted by the board pursuant to this  
18 chapter, or to demonstrate that this chapter is inapplicable to all  
19 lines of business engaged in by the bidder, its agents, subsidiaries,  
20 partners, joint venturers, or subcontractors.

21 (b) Failure to provide certification pursuant to this section shall  
22 render the prospective bidder and its agents, subsidiaries, partners,  
23 joint venturers, and subcontractors ineligible to bid on the  
24 procurement of hazardous electronic devices.

25 (c) The bid solicitation documents shall specify that the  
26 prospective bidder is required to cooperate fully in providing  
27 reasonable access to its records and documents that evidence  
28 compliance with this chapter.

29 (d) Any person awarded a contract by a state agency that is  
30 found to be in violation of this section is subject to the following  
31 sanctions:

32 (1) The contract shall be voided by the state agency to which  
33 the equipment, materials, or supplies were provided.

34 (2) The contractor is ineligible to bid on any state contract for  
35 a period of three years.

36 (3) If the Attorney General establishes in the name of the  
37 people of the State of California that any money, property, or  
38 benefit was obtained by a contractor as a result of violating this  
39 section, the court may, in addition to any other remedy, order the

1 disgorgement of the unlawfully obtained money, property, or  
2 benefit in the interest of justice.

3  
4 Article 7. Inapplicability of Chapter  
5

6 42485. The board shall not implement this chapter if either of  
7 the following occur:

8 (a) A federal law, or a combination of federal laws, takes effect  
9 and does all of the following:

10 (1) Establishes a program for the collection, recycling, and  
11 proper disposal of cathode ray tube devices that is applicable to all  
12 cathode ray tube devices sold in the United States.

13 (2) Provides revenues to the state to support the collection,  
14 recycling, and proper disposal of cathode ray tube devices, in an  
15 amount that is equal to, or greater than, the revenues that would be  
16 generated by the fee imposed under Section 42471.

17 (3) Requires cathode ray tube device manufacturers, retailers,  
18 handlers, processors, and recyclers to dispose of those devices in  
19 a manner that is in compliance with all applicable federal, state,  
20 and local laws, regulations, and ordinances, and prohibits the  
21 devices from being exported for disposal in a manner that poses a  
22 significant risk to the public health or the environment.

23 (b) A trial court issues a judgment, which is not appealed, or an  
24 appellate court issues an order affirming a judgment of a trial  
25 court, holding that out-of-state manufacturers or retailers, or both,  
26 may not be required to collect the fee authorized by this chapter.  
27 The order shall be stayed until all appeals are concluded. The  
28 out-of-state manufacturers or retailers, or both, shall continue to  
29 collect the fee during the appellate process.

30 SEC. 4. *The provisions of this act are severable. If any*  
31 *provision of this act or its application is held invalid, that*  
32 *invalidity shall not affect other provisions or applications that can*  
33 *be given effect without the invalid provision or application.*

34 SEC. 5. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

3 *SEC. 6. This act is an urgency statute necessary for the*  
4 *immediate preservation of the public peace, health, or safety*  
5 *within the meaning of Article IV of the Constitution and shall go*  
6 *into immediate effect. The facts constituting the necessity are:*

7 *Due to the public health and environmental threat posed by*  
8 *hazardous electronic waste, and in order to further limit the*  
9 *adverse effect of this waste on public health and safety and the*  
10 *environment, it is necessary that this act take effect immediately.*

